



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

34 Sable Run Lane Nom. Trust/Map 237, Lot 12

January 5, 2011

Applicant: 34 Sable Run Lane Nom. Trust c/o Alan and Bethann Ayres, Trustees
34 Sable Run Lane
Methuen, MA 01844

Location: 50 Braun Bay Road, Moultonborough, NH (Tax Map 237, Lot 12)

On November 17, 2010 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of 34 Sable Run Lane Nom. Trust (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III (B)(3) to allow for construction of a new guesthouse within seven (7) feet of the side property line within the required twenty (20) foot side setback on the parcel located in the Agricultural Residential (AR) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 50 Braun Bay (Tax Map 237, Lot 12).
- 2) The applicants are the owners of record for the lot.
- 3) The applicants were represented by Jason Hill of Holden Engineering and Surveying, Inc.
- 4) The lot is located in the Agricultural Residential (AR) Zoning District.
- 5) The side setback for the parcel is twenty (20) feet from the property line.
- 6) There is an existing guest house located within the twenty (20) foot side setback, with an intrusion of approx. 195 sq.ft. within this setback.
- 7) The proposed new guest house would be larger than the original guesthouse and would be located approx. seven (7) feet from the side property line, with an intrusion of approx. 245 sq.ft. within the setback.
- 8) The proposed new guest house would be increasing the non-conformity of the existing structure on the lot.

- 9) The ZBA asked for further information at the November 17, 2010 meeting, to be supplied by the applicant for the December 1, 2010 meeting.
- 10) The applicant's representative requested a continuation of the December 1st meeting until December 15, 2010 for the required information to be compiled.
- 11) At the meeting on December 15, 2010, no members of the public spoke in favor of the application.
- 12) One member of the public asked what the condition of the existing guest house was.
- 13) Granting the Variance would not be contrary to the public interest as the use of the site for single-family residential use with guest houses is common along the shoreland in this district.
- 14) Granting the Variance would be consistent with the spirit of the Ordinance.
- 15) By granting the Variance, substantial justice would be done.
- 16) Granting the Variance would not diminish the value of surrounding properties as the neighborhood is largely comprised of single family homes, some with guest houses.
- 17) Special conditions do not exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the applicant is proposing to enlarge an existing non-conformity and is under no obligation to remove and replace the existing guest house, located within the setbacks. As such, the applicant has created the hardship, and an unnecessary hardship does not exist.
- 18) The Zoning Board of Adjustment voted by a vote of four (4) in favor (Stephens, Nolin, Roseberry Zewski), and none (0) opposed to continue the Public Hearing to January 5, 2011, and to direct the Town Planner to draft a Notice of Decision to Deny the Special Exception, to be reviewed by the Board at the January 5, 2011 Regular Meeting.

The Public Hearing was continued to December 1, 2010, December 15, 2010 and January 5, 2011. The Board of Adjustment closed the Public Hearing on January 5, 2011. Based on the above Findings of Fact, the Board of Adjustment voted by a vote of five (5) in favor (Stephens, Hopkins, Nolin, McCarthy, Roseberry), none (0) opposed, to **DENY** the request for variance.

This decision shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.

Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date _____